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DEPARTMENT OF ENVIRONMENTAL QUALITY

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Secretary of Natural Resources

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Director

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STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION A SPECIAL ORDER BY CONSENT ISSUED TO ROANOKE CEMENT COMPANY Registration No. 20232

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code § 10.1-1307.D, 10.1-1309, and 10.1-1184, and § 10.1-1316.C, between the State Air Pollution Control Board and Roanoke Cement Company, for the purpose of resolving certain violations of State Air Pollution Control Laws and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1301 and 10.1-1184.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Order.
6. "Roanoke Cement Company" and "RCC" means the corporation certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.

7. "Facility" means the structure at 6071 Catawba Road, Troutville Virginia located in Botetourt County, Virginia.
8. "WCRO" means the West Central Regional Office of DEQ; located in Roanoke, Virginia.
9. "Permit" means the Title V Permit, dated December 1, 2003, and which expires December 31, 2008.
10. "D/F" means Dioxin and Furans.

SECTION C: Findings of Fact and Conclusions of Law

1. Roanoke Cement Company owns and operates a facility in Botetourt County, Virginia. This facility is the subject of the TV Permit and 40 CFR Part 63 Subpart LLL.
2. Roanoke Cement Company is subject to CFR 40 Part 63 Subpart LLL – National Emissions Standards for Hazardous Air Pollutants from the Portland Cement Manufacturing Industry. Specifically, Part 63.1349 (b) (3) requires stack testing for Dioxin/Furans (D/F) from the raw mill, of the in-line kiln/raw mill, when the mill is operating. It also required the testing when the raw mill was not operating.
3. Roanoke Cement Company submitted a test protocol dated October 8, 2003 for the PM D/F stack test. The protocol stated that RCC will monitor and record the temperature at the inlet to the kiln precipitator during test runs for dioxins and furans. RCC conducted testing required by Part 63.1349 (b) (3) on November 18 and 20, 2003. The stack test report was received by DEQ on December 23, 2003.
4. Data from the stack test report indicated that RCC met the emission limit for particulate matter and for D/F as well.
5. On December 7, 2005, DEQ and EPA conducted a site visit to RCC. During that visit, EPA requested records from RCC concerning the D/F testing. While compiling the records, RCC realized that the inlet temperatures to the PMCD had been omitted from the stack test report. Inlet temperatures measured during the test were to be included in the stack test report according to §63.1349 (b) (3) (iv). RCC also determined that they had conducted only half the D/F test required by §63.1349 (b) (3). Testing was conducted only when the raw mill was operating. RCC did not complete the other half of the test when the raw mill was not operating. Therefore, average temperatures could not be generated according to §63.1349 (b) (3) (iv). These temperatures are needed to satisfy the requirements of §63.1344 (a) (1) (2).

6. RCC submitted a letter to EPA and DEQ dated January 13, 2006 in which they notify EPA of the following:
 - a. Inlet temperatures for particulate matter control devices were not included in any report data.
 - b. Particulate matter control device inlet temperatures were only established while the raw mills were operating.
 - c. Inlet temperatures established during performance testing have been exceeded.
 - d. Data prior to the December 23, 2003 stack test report has compressed, and therefore is inconclusive.
8. DEQ issued a NOV dated January 27, 2006 for the alleged violation of the stack test requirements specified in §63.1349 (b) (3).

SECTION D: Agreement and Order

Accordingly the Board, by virtue of the authority granted it pursuant to Va. Code §10.1-1307.D, 10.1-1184, and §10.1-1316.C, orders Roanoke Cement Company, and Roanoke Cement Company agrees, to perform the actions described in Appendix A of this Order. In addition the Board orders Roanoke Cement Company, and Roanoke Cement Company voluntarily agrees, to pay a civil charge of \$17,500.00 in settlement of the violations cited in this Order.

1. \$4,375.00 of this civil charge shall be paid within 30 days of the effective date of the Order. Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia", delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

The payment shall include Roanoke Cement Company's Federal ID number and shall state that it is being tendered in payment of the civil charges assessed under this Order.

2. The remaining amount (\$13,125.00) of the initial civil charge shall be applied to the Supplemental Environmental Project (SEP) pursuant to Virginia Code 10.1-1186.2 and as described in Appendix A of this Order.

3. Should the DEQ determine that the SEP has not been completed in a satisfactory manner, the DEQ shall notify Roanoke Cement Company of such determination in writing. Within thirty (30) days of such notification, Roanoke Cement Company shall pay the amount specified in Paragraph 2 above, in accordance with the procedures specified in Paragraph 1 above.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Roanoke Cement Company, for good cause shown by Roanoke Cement Company, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Roanoke Cement Company by DEQ on January 18, 2005. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. By entering into this Order, Roanoke Cement Company neither admits nor denies the factual findings or conclusions of law contained herein. For purposes of this Order and subsequent actions with respect to this Order, Roanoke Cement Company agrees not to challenge the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Roanoke Cement Company consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Roanoke Cement Company declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 9-6.14:1 *et seq.*, and the Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Roanoke Cement Company to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall

waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Roanoke Cement Company shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Roanoke Cement Company shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Roanoke Cement Company shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Roanoke Cement Company. Notwithstanding the foregoing, Roanoke Cement Company agrees to be bound by any compliance date, which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Roanoke Cement Company. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Roanoke Cement Company from its obligation to

comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. By its signature below, Roanoke Cement Company voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 5th day of JULY, 2006.

Steven A. Dietrich

Steven A. Dietrich, Director
West Central Regional Office
Department of Environmental Quality

Roanoke Cement Company voluntarily agrees to the issuance of this Order.

By: [Signature]

Date: JUNE/23/06.

Commonwealth of Virginia

City/County of Bote Court

The foregoing document was signed and acknowledged before me this 23 day of June, 2006 by George Pantazopoulos, who is Plant Manager of Roanoke Cement Company, on behalf of the Corporation.

[Signature]

Notary Public

My commission expires:

December 31, 2010

APPENDIX A

1. Supplemental Environmental Project

1. Roanoke Cement Company shall perform the following Supplemental Environmental Project:

Roanoke Cement shall install a new totally enclosed air supported conveyor system at the # 11 finish mill.

2. The SEP shall be completed by December, 2006.
3. The net cost of the SEP shall not be less than \$13,125.00.
4. Roanoke Cement Company shall submit a written progress report on the SEP within thirty (30) days of the effective date of the Order. Thereafter, progress reports shall be submitted on a quarterly basis until completion of the project.